

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1840V

UNPUBLISHED

ILENE BUSEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: June 2, 2023

Special Processing Unit (SPU);
Ruling on Entitlement; Concession;
Table Injury; Influenza (Flu) Vaccine;
Shoulder Injury Related to Vaccine
Administration (SIRVA)

*Trisha S. Widowfield, Haliczzer, Pettis, & Schwamm FL, Fort Lauderdale, FL, for
Petitioner.*

Julia Marter Collison, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On September 10, 2021 Ilene Busey (“Petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioner alleges that she suffered a right shoulder injury related to vaccine administration (“SIRVA”), a defined Table injury or, in the alternative caused-in-fact injury, after receiving an influenza (“flu”) vaccine on September 10, 2019. Petition at 1, ¶¶ 2, 16. Petitioner further alleges that she received the flu vaccine in the United States, that she suffered the residual effects of her SIRVA for more than six months, and that

¹ Because this Ruling contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

neither she nor any other party has filed a civil case or received compensation for her SIRVA injury. *Id.* at ¶¶ 2, 16-19. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On June 2, 2023, Respondent filed a combined Rule 4(c) Report and Proffer in which he concedes that Petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report and Proffer at 1. Specifically, Respondent believes "that [P]etitioner's has satisfied the criteria set forth in the Vaccine Injury Table ("Table") and the Qualifications and Aids to Interpretation ("QAI") for a SIRVA." *Id.* at 8.

In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master